



Bank of America

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World Headquarters

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VIA FACSIMILE AND FEDERAL EXPRESS

Cynthia L. Johnson, Director
Cash Management Policy & Planning Division
U.S. Department of the Treasury, Room 420
401 14th Street, S.W.
Washington, D.C. 20227

Re: Electronics Benefits Transfer; 31 CFR 208 [RIN 1510-AA56]

Dear Ms. Johnson:

Bank of America is pleased to provide comments on the proposed rulemaking regarding the Direct Federal Electronic Benefits Transfer (EBT) for receiving Federal payments. We support Financial Management Service (FMS) and Treasury's efforts to bring those Americans who receive Federal payments and who are underbanked into the financial services mainstream. Bank of America shares the hope that this process will have the effect of encouraging this population to save and invest. The goals set forth in this proposal, namely ensuring that recipients have access to their funds at a reasonable cost, providing appropriate consumer protections and ensuring efficient delivery systems are sound and consistent with Bank of America's business objectives. We look forward to continuing our ongoing dialogue with FMS and the Treasury Department on these important challenges.

We applaud FMS and Treasury's decision to solicit extensive comments from all interested parties. This approach to information gathering will help to make the transition to EFT successful and will minimize unintended obstacles. It is evident from the proposal that FMS and Treasury have carefully considered the comments made on previous interim rules and have incorporated these comments in the current proposal in a thoughtful and reasoned manner.

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Bank of America believes that the process set out in the proposed rule whereby an individual can obtain a waiver and continue to receive a paper check is appropriate. Allowing recipients to self-certify rather than apply for a waiver is a simple, efficient and realistic approach.

We are pleased with the approach that Treasury has taken in attempting to design an ETA account that is both inexpensive to provide and can be made available at a reasonable cost. We agree that mandating minimum requirements for ETA accounts would be counterproductive at this time. Instead, FMS and Treasury are taking a sound approach by allowing depository institutions to bid for accounts in a competitive process. We support the view set forth by Treasury and FMS that fees for accounts voluntarily obtained by federal payments recipients should not be regulated. As we have stated in previous comments, the economic viability of ETA accounts will depend on the Financial Agents' ability to establish appropriate pricing based on the number and nature of transactions permitted and to accommodate other product features.

We urge FMS and Treasury to remain mindful that even transaction accounts with limited card-only access, present credit risk and risk of loss from fraud to financial institutions. When applied to a currently unknown cross-section of the market, this could create substantial risk to the payments system. For this reason, we believe that it is prudent risk management to restrict authorization to act as a payment agent to federally insured depository institutions or entities who are partnering with an insured depository institution.

Bank of America believes that the ETA account should be designed as a basic account priced at a minimal monthly service charge. The account should provide for direct deposit of federal payments with 2 electronic withdrawal transactions per month. Recipients would have the option to purchase additional services from a financial services provider thereby becoming a "mainstream" financial services consumer.

It is important to acknowledge that there are a large number of low-cost and free accounts that already exist in today's financial services marketplace. Despite this fact, a significant segment of society remains "unbanked". Consequently, a well planned and adequately funded consumer education campaign will be essential to the success of this effort.

We believe that Treasury's approach to the design and implementation of ETA accounts is sound. We look forward to working the FMS and Treasury in the months to come to provide advice and assistance on the product design features and pricing implications of this account. In addition to these general comments, we would like to address the specific questions posed by the proposal as follows:

ETA ACCOUNTS

(1) Should Treasury make available a debit card-based account to individuals who are required to receive Federal payments by EFT and who do not have an account of their own with a financial institution?

The ETA account should be a debit card based account. However, the number and type (e.g. withdrawals, balance inquiries, etc.) of transactions, if any, and whether or not they will be permitted at POS terminals, ATMs or both, will impact the cost of basic service and additional access fees. Pricing and features should be specified by the bidders to reflect local market conditions.

(2) Should the cost of the account to the recipient be the most important factor for selecting the account structure and/or the account providers, or should the account structure be designed to meet other objectives even if the cost to recipients is increased as a result?

The cost of the account should not be the most important factor in selecting providers. Other factors that should be considered include: the costs for financial institutions to develop and deliver the account, ease of use by recipients, the access points available and resulting convenience for recipients and the ability of financial institutions to provide appropriate customer service.

(3) What is an appropriate standard by which to weigh tradeoffs between increased costs and additional account features?

While the price of the ETA account is an important consideration, customer convenience and access are equally important. For this reason, we believe that the price of the ETA account should only be evaluated after a threshold level of customer service and access has been guaranteed.

(4) Should the account be structured to provide only a basic withdrawal service at the lowest possible cost, with additional service charges for additional features, or should the account offer a range of services at a fixed monthly cost, even if greater than the cost of a basic account?

The ETA account should be structured to provide only basic electronic withdrawal service for the minimum monthly service charge. Additional transactions can be made available for additional charges. This is the only structure that will make the account economically feasible for financial institutions to offer and incent previously unbanked customers to enter the financial mainstream.

(5) How many withdrawals should be included in the base price of the account?

It is important to keep in mind that the more transactions that are included in the basic account, the higher the base fee must be. In order to insure a low cost for recipients, we recommend that the ETA basic account include no more than two electronic withdrawals per month.

(6) Should the account terms address the charges imposed by automated teller machine owners other than the account provider?

ETA accounts should not address convenience fees for ATM use. ETA account holders should be subject to ATM access fees in the same manner as all other consumers. Previously unbanked recipients who are attempting to move into the financial mainstream by maintaining a bank account would be disadvantaged by ATM access fee exemptions for ETA account holders. In addition, the ability of financial institutions to charge ATM access fees allows those institutions to deploy more machines, often in currently underserved communities.

(7) Should the account structure provide for additional electronic or nonelectronic deposits within the basic monthly service charge?

We believe the ETA account should be a very basic account established for the purpose of receipt of electronic federal payments only. Expanded withdrawal services such as accepting non-electronic payments increase the risk of fraud and will drive up the cost to provide the account.

(8) Should the account provide for some number of third-party payments, such as payments for rent or utility bills?

Again, we believe that the ETA account should be designed to be a basic account for the receipt of federal electronic payments only. By designing the ETA to be a basic account, recipients are encouraged to become part of the banking "mainstream" by obtaining additional required services from their chosen financial institution.

(9) Should the account include a savings feature? How would such a feature operate? Would additional free withdrawals or the capability to accept deposits other than the Federal payment act to foster savings by the recipient?

Including additional features like a savings component unnecessarily complicates the ETA product. Providing a minimal feature/low priced account will not preclude an individual from accumulating savings if he or she so desires.

(10) How important is a broad geographic reach to meeting the access objectives that most recipients will want?

We believe that a broad geographic access is less important than providing adequate local access in the markets where recipients live and work.

(11) How should Treasury best meet access needs in underserved areas?

Bank of America is committed to providing banking services to underserved populations, including "cash consumers", profitably and at acceptable levels of risk. For example, we are currently working with community organizations such as the California Community Reinvestment Committee, community-based credit unions, social service agencies, and others to develop educational programs and alternative methods of delivering financial services through community-based electronic banking sites which include ATMs, supermarkets, kiosks and PCs. Federal agencies could use a similar approach to reach underserved areas.

Since the advent of optional ATM convenience fees, over 30,000 new ATM locations have been added in the U.S. Maintaining the current market based pricing mechanism for ATM access fees will encourage ATM owners to continue to deploy additional ATMs in lower volume locations that were previously unprofitable.

(12) Should access to the account be provided at outlets in addition to those normally offered by the financial institution?

Bank of America has no comment at this time.

(13) If additional access is offered through arrangements with third parties, should the cost of this additional access be included in the pricing proposal in the competitive bid process?

Bank of America has no comment at this time.


(14) Which account design would provide the appropriate opportunity for non-financial institutions to participate in the delivery of services to Federal payments recipients?

Bank of America has no comment at this time.

FINAL COMMENTS

Once again, we thank FMS and Treasury Department for the opportunity to share our views. We would be happy to meet with you, your staff and others in the Treasury Department to discuss the issues in greater detail. I can be reached at (415) 622-8685 or you may contact Brenda Yost at (415) 622-3767. Thank you for consideration of our comments and concerns. We look forward to continuing to work with you on this important process.

Sincerely,



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